

GAO

United States General Accounting Office

Report to Congressional Committees

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DEFENSE
ACQUISITION

Occasional Special
Access Programs Has
Increased



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United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-251169

December 21, 1992

Congressional Committees

We are providing an unclassified summary of our recent classified report on oversight policies and practices for a sample of Department of Defense (DOD) special access acquisition programs.

In addition to issuing numerous classified reports on individual special access programs over the past decade, we have previously issued two unclassified reports dealing with the government's efforts to manage and oversee such programs. The first report, Special Access Programs: DOD Criteria and Procedures for Creating Them Need Improvement (GAO/NSIAD-88-152, May 24, 1988), addressed criteria used in the approval process to establish special access programs. The second, Special Access Programs: DOD Is Strengthening Compliance With Oversight Requirements (GAO/NSIAD-89-133, May 4, 1989), described DOD's initiatives to strengthen the oversight of special access programs.

In our 1989 report, we noted a trend toward increased oversight and centralization of oversight of special access programs within DOD. We find today that this trend continues. As a result of congressional and other external pressures, DOD has taken additional action to strengthen and centralize oversight of special access programs. The DOD Inspector General and the military services' audit agencies and inspectors general have also increased their oversight of these programs. (See app. I).

DOD concurred with our findings. A copy of DOD's overall comments appears in appendix II.

We are sending copies of this report to the Secretaries of Defense, the Army, the Navy, and the Air Force. We will make copies available to others upon request.

This report was prepared under the direction of Nancy R. Kingsbury, Director, Air Force Issues, who may be reached at (202) 275-4268 if you or your staff have any questions. Other major contributors to this report are Richard J. Price, Assistant Director; Anton G. Blieberger, Evaluator-in-Charge; and Anthony J. DeFrank, Evaluator.

Frank C Conahan

Frank C. Conahan
Assistant Comptroller General

List of Addressees

The Honorable Sam Nunn
Chairman, Committee on Armed Services
United States Senate

The Honorable John W. Warner
Ranking Minority Member, Committee on Armed Services
United States Senate

The Honorable Robert C. Byrd
Chairman, Committee on Appropriations
United States Senate

The Honorable Mark O. Hatfield
Ranking Minority Member, Committee on Appropriations
United States Senate

The Honorable Daniel K. Inouye
Chairman, Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Ted Stevens
Ranking Minority Member, Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Les Aspin
Chairman, Committee on Armed Services
House of Representatives

The Honorable William L. Dickinson
Ranking Minority Member, Committee on Armed Services
House of Representatives

The Honorable Jamie L. Whitten
Chairman, Committee on Appropriations
House of Representatives

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DIRECTED

**The Honorable Joseph M. McDade
Ranking Minority Member, Committee on Appropriations
House of Representatives**

**The Honorable John P. Murtha
Chairman, Subcommittee on Defense
Committee on Appropriations
House of Representatives**

Summary of Classified Report on Special Access Acquisition Programs

Purpose

Beginning in the mid-1980s, Congress repeatedly expressed concern about the growing number of Department of Defense (DOD) special access programs. Congress also expressed dissatisfaction with the application of special access controls to a number of large, high cost special access acquisition programs like the B-2 bomber. In addition, the security procedures used for these programs and DOD's refusal to provide access to information limited congressional oversight of these programs. The congressional defense authorization committees also noted that special access limitations contributed to management and oversight failures, as exemplified by the Navy's A-12 aircraft acquisition program.

In considering fiscal year 1992 defense authorizations, both the House and the Senate defense committees supported legislation that would have increased congressional oversight and centralized management of special access program oversight within DOD. Although the committees and DOD compromised on the issues that gave rise to the proposed legislation, the Conference Report on the Fiscal Year 1992 Appropriations Bill (H.Rept. 102-328) reiterated congressional concerns about the adequacy of DOD's oversight and management of special access programs.

This report provides a further assessment of the oversight and management processes affecting DOD's special access acquisition programs. GAO examined a sample of subjectively selected programs of five DOD components to determine the status of oversight of these programs and whether

- they were established and managed in accordance with the laws, directives, and regulations in force at the time of their creation and execution;
- DOD maintained adequate control of the funds appropriated for these programs; and
- the cost, schedule, and performance results of special access acquisition programs are comparable to, or different from, those experienced by DOD non-special access acquisition programs.

The sampled programs were diverse in size and cost and ranged from basic research efforts to deployed systems.

Background

Special access programs, also known as "black" programs, are highly classified projects with tightly controlled access and stringent security measures beyond those of standard classified programs. While DOD's special access programs have received the greatest attention over the

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years, Executive Order 12356, dated April 2, 1982, also authorizes other executive branch agencies to create special access programs. DOD creates special access programs to protect (1) intelligence activities, capabilities, methods, and information; (2) operational activities, capabilities, and methods; and (3) acquisition programs from threats to national security. Examples of special access acquisition programs are the B-2 Advanced Technology Bomber, the Tri-Service Standoff Attack Missile, and the Advanced Cruise Missile.

Special access protection may be provided to an entire program throughout its development and acquisition, such as the F-117A stealth fighter, or to parts of a program, such as the Advanced Cruise Missile. To qualify for special access status, program managers must demonstrate that normal security provisions are not sufficient to protect the programs from exploitation by hostile intelligence and other potential threats to security and that the number of persons requiring access will be "reasonably small" and limited to the minimum necessary to meet the objective of providing extra protection for the information. For the programs sampled by GAO, that definition was broadly interpreted, and the smallest number of people with access was about 800 for a small research program. DOD Regulation 5200.1-R ("DOD Information Security") and DOD Directive 0-5205.7 ("Special Access Program Policy") guide the establishment, control, and termination of these programs.

Section 119, 10 U.S. Code, enacted in 1987, requires DOD to submit annual reports to the congressional defense committees on special access programs. Under the law, the Secretary of Defense may waive the requirement that certain information on special access programs be included in the annual report if he determines that the inclusion would adversely affect national security. However, he must provide the excluded information to the chairman and ranking minority member of each of the congressional defense committees.

Under the provisions of section 119, only the defense committees, that is, the Committees on Appropriations and Armed Services and the Defense Subcommittees of the Committees on Appropriations are provided information on DOD special access programs. In some instances, the Senate Select Committee on Intelligence and the Permanent Select Committee on Intelligence of the House of Representatives also receive information on these programs. Under congressional operating procedures, other members and staff desiring information about these programs must request access through the chairmen of the defense committees.

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Until 1989, DOD released information about special access programs to the Congress on a highly selective basis for security reasons. Since that time Congress has taken additional action to strengthen its oversight role.

Results in Brief

DOD had properly established the programs GAO sampled but had provided less oversight over them than over similarly sized non-special access acquisition programs. DOD used waivers and exemptions to limit review, documentation, and reporting requirements. In prior audits of special access acquisition programs, GAO and DOD also found cases of weak internal controls, poor internal communication, and inadequate record-keeping.

Funding lines for special access programs are purposely disguised in unclassified budget documents to enhance security. However, GAO's review of financial transactions for the programs in its sample showed that DOD followed the same resource justification, execution, and review processes that it uses for non-special access acquisition programs.

Sampled programs experienced cost increases, scheduling delays, and performance problems that are similar to those of other DOD acquisition programs GAO has reported on that have not been afforded special access program status.

In its May 1989 report, GAO noted a trend toward increased oversight and centralization of oversight of special access programs within DOD. This trend has continued. In response to congressional committee direction and the work of GAO and defense audit agencies, DOD has taken additional action to strengthen and centralize oversight of special access programs. The DOD Inspector General and the military services' audit agencies and inspectors general have increased their oversight of these programs.

Congressional oversight of DOD special access programs has also increased. Congress legislated formal reporting requirements, and the Senate Armed Services Committee pressured DOD to provide information on all special access programs to the congressional defense committees. According to a majority of the defense committees' staff who work with acquisition and operational special access programs, DOD provides adequate information to enable them to make informed recommendations about these programs to committee members.

Principal Findings

Programs Were Properly Established but Exempted from Some Regulatory Requirements

The special access programs sampled by GAO were properly approved by authorized officials—the component or agency secretary, the Deputy Undersecretary of Defense for Policy, or, in the few cases when authority was delegated, a designated representative. Program execution followed the same decision-making chain as other DOD acquisition programs, except that the number of people informed about each program was purposely limited to enhance security.

Sampled programs did not operate in strict compliance with DOD acquisition regulations, but the regulations' applicability to special access programs was not clear. Until 1991, DOD guidance for major and nonmajor defense acquisition programs did not explicitly address its applicability to highly sensitive classified programs. As a result, DOD exempted some special access programs from Defense Acquisition Board reviews that would otherwise have been required for some of the sampled programs. DOD also often exercised its authority to waive requirements to compete contracts in executing special access programs and exempted some special access programs from selected acquisition reports submitted to Congress.

Reports by DOD and external audit organizations have identified repeated cases of weak internal controls concerning contracting and technical matters, poor internal communication, and deficient record-keeping in the special access programs GAO sampled. In addition, information was withheld from outside support organizations in some instances, which limited their ability to provide requested support. Some program offices were understaffed, while others had untrained staff to perform important functions. According to DOD officials, this situation is similar to that found in non-special access programs of similar sizes.

Funds Were Properly Controlled

Although financial information about special access programs is disguised in public documents, these programs are subject to the same resource justification, execution, review processes, and reprogramming rules as non-special access DOD acquisition programs. GAO found that DOD followed these processes and rules for the programs it sampled.

**Cost, Schedule, or
Performance Problems of All
Programs Are Similar**

GAO found no major difference between the cost, schedule, and performance results of the special access acquisition programs it sampled and those of non-special access DOD acquisition programs. For example, former special access programs such as the F-117A stealth fighter, the B-2 bomber, the Advanced Cruise Missile, the Brilliant Anti-Armor Sub-Munition, the Tri-Service Standoff Attack Missile, and others in the GAO sample suffered from cost growth, schedule slippage, and performance shortfalls similar to that experienced by non-special access programs like the Advanced Medium Range Air-to-Air Missile, the B-1B bomber, and the C-17 aircraft. At least one special access acquisition program from each service or agency represented in the GAO sample experienced either cost growth, schedule slippage, or performance shortfalls. A number of programs suffered substantially from all three.

Special access acquisition programs are managed by program offices whose functions—for example cost analysis, engineering, contracting, testing, and program control—are similar to those of non-special access acquisition program offices. Under special access procedures, management functions are carried out by fewer, but normally higher ranking officials, who are able to exercise greater autonomy and authority than managers of non-special access acquisition programs.

**Special Access Program
Oversight Has Been
Increased and Further
Centralized**

Since GAO's 1989 report, Congress has taken additional action to strengthen its oversight role. For example, it strengthened legislation requiring DOD to provide reports on these programs, and the defense committees were successful in obtaining greater access to all DOD special access programs.

The majority of professional staff members of the congressional defense committees that oversee special access acquisition programs and that GAO interviewed said DOD had been providing sufficient information to allow them to formulate appropriate authorization and appropriations recommendations. Three staff members interviewed by GAO said that to ensure proper oversight, they needed more detailed information. However, they said that the information DOD had been providing on non-special access acquisition programs was similarly lacking.

Although the nature of DOD's special access acquisition programs necessitates limits on oversight, there has been a trend toward centralizing oversight functions and responsibilities within DOD in recent years. In response to internal audits and external pressures, the DOD leadership has

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strengthened management of the special access program oversight process. In June 1991, the Deputy Secretary of Defense removed the authority to establish special access programs from the service secretaries, cancelled all delegations of authority to establish special access-like programs, and required annual or biennial rejustification of the special access status of existing programs.

The military services and defense agencies have also strengthened their oversight of special access programs, and the defense audit agencies and inspectors general have taken a more active role in special access program oversight. For example, each program in the GAO sample was reviewed at least once by an internal DOD audit or inspection agency. Most have been subjected to several reviews and audits.

Contract administration for special access acquisition programs has been frequently cited by auditors and inspectors as being inadequate. The Defense Investigative Service and the Defense Contract Audit Agency are responsible for conducting inspections and audits of DOD contracting activities for special access acquisition programs. In the past, DOD made extensive use of its authority to engage in "carve-out" contracting, a practice that allowed the Department to keep investigators of the Defense Investigative Service from reviewing special access programs contracts. Although carve-out contracting is still authorized, since 1991, only the Secretary and Deputy Secretary of Defense may approve such contracts.

In 1990, DOD assigned the contract administration mission for special access programs to the Defense Contract Management Command of the Defense Logistics Agency. The Defense Contract Audit Agency (DCAA) has increased its capacity to audit special access programs in recent years by obtaining necessary security clearances for about one-third of its auditors. A recent DOD Inspector General report found that DCAA had provided prompt and adequate audit coverage when its services had been requested. However, the report also indicated that the military services had not requested DCAA's audit services as often as they should have and had not always provided DCAA auditors all relevant information about specific special access programs.

Recommendations

GAO is not making any recommendations in this report.

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Agency Comments

In commenting on the classified report, DOD concurred with GAO's findings. DOD provided a number of technical clarifications, which have been incorporated in the classified report and this summary.

Comments From the Department of Defense



ACQUISITION

OFFICE OF THE UNDER SECRETARY OF DEFENSE

WASHINGTON, DC 20301-3000

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Ms. Nancy R. Kingsbury
Director, Air Force Issues
National Security and International Affairs Division
U. S. General Accounting Office
Washington, D.C. 20548

Dear Ms. Kingsbury:

The General Accounting Office (GAO) draft report Defense Acquisition Management: Oversight of Special Access Programs Has Increased (GAO Code 392612) has been reviewed. The draft report contained four comments and no recommendations. The Department of Defense concurs with the four comments. I have enclosed our comments for incorporation into the report. The comments deal with minor factual errors and clarifications. Request these corrections be incorporated in your report.

As you requested, the draft report has also undergone a security review. The results of this review are being forwarded separately.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph H. Graham".

Ralph H. Graham
Brigadier General, U. S. Air Force
Director of Special Programs

Enclosure